

# Attachment 3: Orders Signed by State Judges



**Richard C. Terrell**  
*Presiding Judge*

**79TH JUDICIAL DISTRICT COURT  
JIM WELLS & BROOKS COUNTIES**

200 N. ALMOND ST. • P. O. BOX 3080 • ALICE, TEXAS 78333  
(361) 668-5718 • FAX (361) 668-8240

100 E. MILLER ST. • FALFURRIAS, TEXAS 78355  
(361) 325-5604 • FAX (361) 325-9803

**Carol S. Salinas**  
*Court Manager*

**Cristina V. Quintana**  
*Assistant Court Manager  
Criminal Division*

Wed Apr 29 08:39:50 CDT 2015

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RICHARD C. WOOLSEY  
ATTORNEY AT LAW  
555 N. CARANCAHUA, STE. 1160  
CORPUS CHRISTI, TX 78401

APR 29 2015

RE: 15-02-54206-CV, **MARISSA AND JOSE BENAVIDES, INDIVIDUALLY AND AS REPRESENTATIVES OF THE ESTATE OF AB, DECEASED** VS. **RICHARD J. GUAJARDO, M.D. AND CHRISTUS SPOHN HEALTH SYSTEM CORPORATION D/B/A CHRISTUS SPOHN HOSPITAL**  
**ALICE**

**DOCKET CONTROL CONFERENCE**

The above styled and numbered case has been set for a DOCKET CONTROL CONFERENCE to be held telephonically on the Tuesday May 12, 2015, at 1:45 o'clock.

The telephone conference should be initiated by the Plaintiff's attorney (\* unless otherwise specified, see note below). If you have any questions relating to the procedure of the DOCKET CONTROL CONFERENCE, please contact the COURT MANAGER @ 361-668-5718.

Copies of this notice are being forwarded to the person listed. If you are aware of any attorney or party who should be given notice, but whose name does not appear, please advise the COURT MANAGER at once.

Richard C. Terrell  
Judge Presiding  
79th Judicial District

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MAILED

Apr. 28. 2015 4:41PM

Case 2:15-cv-00263 Document 2-3 Filed in TXSD on 06/12/15 Page 3 of 13

No. 6225 P. 2/2



# Janicek Law Firm

1100 NE Loop 410, Suite 550  
San Antonio TX 78209  
Telephone (210) 366-4949  
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Beth S. Janicek  
Board Certified - Personal Injury Trial Law  
beth@janiceklaw.com

Andrew J. Skemp  
andrew@janiceklaw.com

April 28, 2015

**Via Facsimile 361-668-8240**

Carol S. Salinas

79th Judicial District Court Manager

Jim Wells County, Texas

Re: Cause No. 15-0254206-CV; *Marissa and Jose Bennivides, Individually and as Representatives of the Estate of AB, Deceased*; In the 79th Judicial District, Jim Wells County, Texas

Dear Ms. Salinas:

Pursuant to the above-referenced matter, please set this case for a DCC and Jury Trial for the earliest date available.

Thank you for your assistance in this matter.

Yours truly,

JANICEK LAW FIRM, PC

Beth S. Janicek  
BSJ/cm

May 12, 2015 @ 11:45

cc: Richard Woolsey (Via Facsimile 361-561-1967)  
Charles Deacon and/or Bertina York (Via Facsimile 210-270-7205)

ORIGINAL

Apr. 28. 2015 4:41PM

No. 6225 P. 1/2

**COVER****SHEET****FAX**

**To:** Carol S. Salinas - Court Manager for 79<sup>th</sup> Judicial District, Jim Wells  
County  
Charles Deacon/Bertina York  
Richard Woolsey

**Fax #:** 361-668-8240  
210.270.7205  
361.561.1967

**Subject:** Cause No. 15-0254206-CV; *Marissa and Jose Benavides, Individually and as  
Representatives of the Estate of AB, Deceased; In the 79<sup>th</sup> Judicial District, Jim  
Wells County, Texas*

**Date:** April 28, 2015

**Pages:** 2, including this cover sheet.

**COMMENTS:**

IF YOU HAVE ANY DIFFICULTY RECEIVING THIS FAX INFORMATION,  
PLEASE CALL SENDER SARAH HANSEN AT 210.366.4949.

THE INFORMATION CONTAINED IN THIS FACSIMILE TRANSMISSION IS  
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USE OF THE INTENDED RECIPIENT. BOTH THE INDIVIDUAL OR AGENT  
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From the desk of...  
Sarah Hansen  
JANICEK LAW FIRM, PC  
1100 NE Loop 410, Suite 550  
San Antonio, TX 78209  
210.366.4949  
Fax: 210.979.8804

|  |      |         |   |   |
|--|------|---------|---|---|
| FILED AT                               | 4:00 | O'CLOCK | P | M |
| R. DAVID GUERRERO                      |      |         |   |   |
| MAY 12 2015                            |      |         |   |   |
| CLERK, DIST COURT, JIM WELLS CO, TEXAS |      |         |   |   |
| By <u>None</u> <u>Guerra</u> DEPUTY    |      |         |   |   |

CAUSE NO. 15-02-54206-CVMARISSA AND JOSE BENAVIDES,  
ET AL

§

IN THE DISTRICT COURT

VS

§

79<sup>TH</sup> JUDICIAL DISTRICTRICHARD J. GUAJARDO, M.D.,  
ET AL

§

JIM WELLS COUNTY, TEXAS

**SCHEDULING ORDER AND PRE-TRIAL INSTRUCTIONS**

On MAY 12, 2015, scheduling conference was held in the above-entitled and numbered cause. The scheduling conference was conducted: X telephonically \_\_\_\_\_ in Court Manager's office.

Appearances were made by the following attorneys, representatives of attorneys or parties:

TINA YORK

BETH JANICEK

DAVID KLEIN

The following instructions and pre-trial schedule must be utilized and observed by the parties. No changes or modifications may be made except by written order of this Court. As the term is used herein, the term "Plaintiff" shall also include "Cross-Plaintiff" and "Counter-Plaintiff" and the term "Defendant" shall also include "Cross-Defendant" and "Counter-Defendant".

1. **Written Discovery:** Objections to written discovery must have a legally arguable basis in law and fact or must be warranted by a good faith argument for the extension, modification, or reversal of existing law. If a party abuses discovery in seeking, making or resisting discovery, or if any interrogatory or request for inspection or production is unreasonably frivolous, oppressive or harassing; or a response or answer is unreasonably frivolous or made for the purposes of delay, the Court may, upon motion or any party or *sua sponte*, overrule the objection, order a proper answer, production or response, and after due and proper notice impose any appropriate sanction authorized by Rule 215 Texas Rules of Civil Procedure (TRCP) or sec. 9.001, et seq., Texas Civil Practices and Remedies Code (TCPRC). Written discovery must be supplemented regularly, systematically and *instantly* in accordance with the TRCP by the parties as new information and/or documents are received.
2. **Expert Discovery:** The name, address, telephone number, occupation and area of expertise of each and every expert retained by the party to provide expert testimony or opinions at the trial of the case or whose work product, opinions or impressions have been reviewed by any testifying expert must be disclosed and a report prepared and served upon each opposing counsel and non-represented party as required by the TRCP.
3. **Mediation:** Mediation is not required but is encouraged.

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4. **Joint Pre-Trial Order (JPTO):** The parties must file a joint pre-trial order utilizing the form attached as Exhibit "A" to this Scheduling Order. The Plaintiff(s) must initiate the preparation of the JPTO allowing for sufficient time to consult with all parties and attorneys. The parties may not file separate JPTOs, but may offer alternative versions of portions of the JPTO on the JPTO that is presented to the Court.
5. **Final Pre-Trial Conference and Docket Call (FPTC/DC):** A Final Pre-Trial Conference and Docket Call will be held on this case at the time indicated in this Scheduling Order. The attorney in charge for each party must be in attendance, unless expressly excused by the Court, with full authority to make decisions on behalf of the client.
6. **Jury Selection and Trial:** Jury selection will begin at the time indicated in this Scheduling Order. The Court anticipates no delays in the process since all pre-trial matters will have been disposed of at the FPTC/DC.
7. **Settings and Hearings:** The Court Manager in each county within the 79<sup>th</sup> Judicial District will set hearings in consultation with the Court. A copy of the Court's calendar can be obtained by contacting the Court Manager. A Request for Setting form must be submitted to the Court Manager of the county in which the cause is pending on a form approved by the Court. The approved Request for Setting form can be obtained from the Court Manager. The Request for Setting form must be completed in its entirety. Failure to thoroughly complete the Request for Setting form will cause the delay of a setting.

REPRESENTATIONS TO THE COURT ABOUT THE LENGTH OF TIME FOR A HEARING ARE EXPECTED TO BE FOLLOWED. PARTIES SHALL BE LIMITED TO THE TIME REQUESTED.

Any attorney or unrepresented party that requests a setting must consult with all other attorneys and unrepresented parties to attempt to reach an agreement on a proposed setting date that is available with the Court. If an agreement cannot be reached, the attorney or unrepresented party shall certify to same as indicated on the Request for Setting form.

8. **Attorney Conference Required:** Motions may be filed at any time deemed necessary by the parties. The party who files a motion must use all reasonable efforts to confer with all other parties to resolve the issue(s), either orally or in writing, prior to requesting a setting.
9. **Pre-trial Proceedings:** All evidentiary matters will be ruled upon by the Court prior to trial as provided by Rule 103, 104 and Rule 403 of the Texas Rules of Evidence (TRE). At the FPTC/DC, all such matters not previously disposed will be considered and ruled upon. At that time the Court will also determine which witnesses the Court will permit to testify and the legal theories under which the case will be tried. These rulings will include all known evidentiary conflicts for which there are objections involving privileges, hearsay, qualifications of witnesses and status of witnesses as hostile or friendly, admissibility of claimed declarations or admissions against interest, relevancy, relevancy outweighed by unfair prejudice, confusion of issues or misleading the jury or by considerations of undue

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delay or needless presentation of cumulative evidence and any and all other matters called to the attention of the Court.

THE COURT HAS LIMITED TIME FOR CONSIDERATION OF PRE-TRIAL MOTIONS AT THE FPTC/DC. IF YOU HAVE A PRE-TRIAL MATTER THAT WILL REQUIRE MORE THAN ONE (1) HOUR OF THE COURT'S TIME AT THE FPTC/DC, YOU MUST REQUEST AND OBTAIN A HEARING DATE PRIOR TO THE SCHEDULED FPTC/DC.

10. Motions In Limine: Abusive and detailed Motions in Limine that seek rulings on evidentiary matters that are controlled by clear and undisputed rules of evidence will not be considered by the Court. The Court prefers to control prejudicial misuse of undisputed evidentiary matters (such as improper mention of liability insurance or non-taxability of judgments) through its disciplinary powers of contempt. To prevent prejudicial matters from being placed before the jury without proper foundation, however, the Court urges the parties to file limine motions aimed at deterring prejudicial actions that are unique to their case. All parties are required to confer on all limine motions and to present only those matters that cannot be agreed upon to the Court for ruling.
11. Amendments to Scheduling Order: Since the Court has scheduled specific dates into its future calendar with respect to this case, it is not appropriate that the dates or other actions required by this Scheduling Order be changed or amended except by Order of this Court. Agreements of the parties are not binding upon this Court and nothing about this Scheduling Order may be changed except by Order of this Court. In the event the dates or procedures provided in this Scheduling Order do not accommodate a party's schedule, the Court requires the party to contact all other parties for agreement concerning changes, and thereafter to contact the Court Manager as soon as possible to request the changes. Parties are cautioned not to wait to make this request, since the closer to the trial date it is requested, the chance becomes less that a change can be made. When a request for a change is made, the Court Manager will consult with the judge to determine which, if any, changes can and will be made in the Order.
12. Pre-Trial Deadlines: The following was agreed and stipulated by the parties, or ordered by the Court:
  - A. Jury Trial requested: YES X NO
  - B. Estimated length of Trial: 2 WEEKS
  - C. FPTC/DC: OCTOBER 6, 2016 AT 9:00 A.M.
  - D. Jury Selection/Trial: OCTOBER 11, 2016 AT 8:30 A.M.
  - E. Pretrial Order: SEPTEMBER 27, 2016

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**F. Discovery Completion deadline:**Plaintiff(s): SEPTEMBER 12, 2016Defendant(s): SEPTEMBER 12, 2016**G. Pleading amendment deadline:**Plaintiff(s): AUGUST 29, 2016Defendant(s): SEPTEMBER 12, 2016**H. Designation expert witnesses and reports deadline:**Plaintiff(s): JUNE 13, 2016Defendant(s): JULY 13, 2016**I. Written objections to deposition  
testimony deadline:**SEPTEMBER 27, 2016**J. Daubert/Robinson Motions to be heard prior to Trial.**Signed: 5/12/15  
JUDGE PRESIDING

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**EXHIBIT "A"****CAUSE NO. \_\_\_\_\_****§ IN THE DISTRICT COURT****§****v.****§ 79<sup>TH</sup> JUDICIAL DISTRICT****§****§ JIM WELLS COUNTY, TEXAS****JOINT PRETRIAL ORDER**

1. **APPEARANCE OF COUNSEL:** List each party, its counsel, and counsel's address and telephone number in separate paragraphs.
2. **STATEMENT OF THE CASE:** Give a brief statement of the case, one that the judge could read to the jury panel for an introduction to the facts and parties; include names, dates, and places.
3. **JURISDICTION:** Briefly specify the jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.
4. **MOTIONS:** List pending motions.
5. **CONTENTIONS OF THE PARTIES:** State concisely in separate paragraphs each party's claims.
6. **ADMISSIONS OF FACT:** List all facts that require no proof.
7. **CONTESTED ISSUES OF FACT:** List all material facts in controversy.
8. **AGREED PROPOSITIONS OF LAW:** List the legal propositions that are not in dispute.

9. **CONTESTED PROPOSITIONS OF LAW:** State briefly the unresolved questions of law, with authorities to support each.
10. **EXHIBITS:**
- A. Each party will attach two lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.
  - B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five (5) days after the exhibit is listed and made available; failure to object in advance of the trial in writing concedes authenticity.
  - C. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial; the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.
  - D. Parties must mark their exhibits to include the case number on each.
11. **WITNESSES:**
- A. List the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony. Include the qualifications of expert witnesses; these will be used to qualify the expert at trial.
  - B. Include: "If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses."
12. **SETTLEMENT:** State that all settlement efforts have been exhausted, that the case cannot be settled, and that it will have to be tried.
13. **TRIAL:**
- A. Probable length of trial; and
  - B. Logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and demonstrations.

**14. ATTACHMENTS:**

Include a proposed charge with instructions, definitions, and special issues, with legal authority if disputed by any party or attorney.

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**Printed name of Plaintiff**

---

**Printed name of Defendant**

---

**Signature of Attorney in charge  
for named Plaintiff**

---

**Signature of Attorney in charge  
for named Defendant**

APPROVED on this the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

---

**Judge Presiding**



**Richard C. Terrell**  
*Presiding Judge*

**79TH JUDICIAL DISTRICT COURT  
JIM WELLS & BROOKS COUNTIES**

200 N. ALMOND ST. • P. O. BOX 3080 • ALICE, TEXAS 78333  
(361) 668-5718 • FAX (361) 668-8240

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(361) 325-5604 • FAX (361) 325-9803

**Carol S. Salinas**  
*Court Manager*

**Cristina V. Quintana**  
*Assistant Court Manager  
Criminal Division*

Tue May 12 14:10:21 CDT 2015 **MAY 12 2015**

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RICHARD C. WOOLSEY  
ATTORNEY AT LAW  
555 N. CARANCAHUA, STE. 1160  
CORPUS CHRISTI, TX 78401

RE: 15-02-54206-CV, **MARISSA AND JOSE BENAVIDES, INDIVIDUALLY AND AS REPRESENTATIVES OF THE ESTATE OF AB. DECEASED VS. RICHARD J. GUAJARDO, M.D. AND CHRISTUS SPOHN HEALTH SYSTEM CORPORATION D/B/A CHRISTUS SPOHN HOSPITAL ALICE**

**NOTICE FOR DOCKET CALL (CIVIL)**

Presiding Judge: RICHARD C. TERRELL

The above styled and numbered cause is set for:

Docket Call: Thursday October 6, 2016, at 09:00

Counsel should advise all parties of the date and time they are to appear in Court. Copies of this notice are being forwarded to the person listed. If you are aware of any attorney or party who should be given notice, but whose name does not appear, please advise the COURT MANAGER at once. If you need further assistance please contact the court at the number listed above.

Richard C. Terrell  
Judge Presiding  
79th Judicial District

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**Richard C. Terrell**  
*Presiding Judge*

**79TH JUDICIAL DISTRICT COURT  
JIM WELLS & BROOKS COUNTIES**

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**Carol S. Salinas**  
*Court Manager*

**Cristina V. Quintana**  
*Assistant Court Manager  
Criminal Division*

Tue May 12 14:13:14 CDT 2015 **MAY 12 2015**

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SAN ANTONIO, TX 78205

RICHARD C. WOOLSEY  
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555 N. CARANCAHUA, STE. 1160  
CORPUS CHRISTI, TX 78401

RE: 15-02-54206-CV, MARISSA AND JOSE BENAVIDES, INDIVIDUALLY AND AS  
REPRESENTATIVES OF THE ESTATE OF AB. DECEASED VS. RICHARD J. GUAJARDO, M.D. AND  
CHRISTUS SPOHN HEALTH SYSTEM CORPORATION D/B/A CHRISTUS SPOHN HOSPITAL  
ALICE

**NOTICE OF SETTING FOR JURY SELECTION**

Presiding Judge: RICHARD C. TERRELL

The above styled and numbered case is set/reset for JURY SELECTION on Tuesday October 11, 2016,  
at 08:30 o'clock a.m. in the District Courtroom of Jim Wells County Courthouse, in Alice, Texas.

Counsel should advise all parties and witnesses of the date and time on which to appear in Court.

Copies of this notice are being forwarded to the persons listed. If you are aware of any attorney or party  
who should be given notice, but whose name does not appear, please advise the COURT MANAGER at  
once.

If you need further assistance please contact the Court Manager at the number listed above.

Richard C. Terrell  
Judge Presiding  
79th Judicial District

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